

LAKE COUNTY BOARD of ADJUSTMENT
July 8, 2015
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Sue Laverty, Paul Grinde, Steve Rosso, Don Patterson

STAFF PRESENT: LaDana Hintz, Robert Costa, Jacob Feistner, Lita Fonda

Sue Laverty called the meeting to order at 4:02 pm.

Steve pointed out a sentence in the middle of the next-to-last paragraph on pg. 1 that didn't make much sense: "The north was mostly on the neighboring property." The sentence was deleted. In the 3rd line of the 2nd paragraph on pg. 2, he suggested changing 'finish' to 'finished'. **Motion made by Paul Grinde and seconded by Don Patterson to approve June 10, 2015 meeting minutes as amended. Motion carried, all in favor.**

HOEFT CONDITIONAL USE—EAST SHORE (4:05 pm)

Jacob Feistner presented the staff report. (See attachments to minutes in the July 2015 meeting file for staff report.) Surveyor Olaf Ervin spoke as an agent for the project. The applicants agreed with what the staff put forward. He conversed with Bigfork fire chief Wayne Loeffler, who asked that they make sure the side of the structure that would be accessed by fire equipment (where the driveway came in) would be no more than 35 feet in height so it would work for their equipment. This was easily done. A couple of steps had been planned to go up to a door on that side. They would raise the grade up and have one step on that side. They had no problem with that condition. He invited questions. This was a peculiar site in this district because it was so large. You really couldn't see the structure from publicly accessible places until you were further across the lake, where maybe you could see it with binoculars.

Steve asked which elevation drawing was the one on the access side. Olaf replied it was called the rear elevation. It didn't show it with the grade being raised. These drawings came from the architectural firm. The measurements on which they were basing this were his surveyed measurements. The unfortunate situation was they actually started building before they understood they had a permit requirement. This meant they had real-world measurements, which was currently at 36 feet. They could raise the grade to make the building height 35 feet and it would fit together. Sue checked that the access point was shown on the black & white photo #1. Olaf pointed out the location on a picture. He assumed that in a situation like this, maybe he could provide a surveyor's affidavit of the height to Planning after this was done.

Steve pointed to condition #4. To give some leeway, he suggested it say 'a maximum of 35 feet' rather than '35 feet', so it didn't have to be exactly 35 feet. LaDana asked if they should add in Olaf's suggestion that he provide something to demonstrate compliance when it was completed. The Board agreed that was appropriate upon completion. Sue

summarized that an added condition would say that upon completion, the land surveyor shall certify the height on the access side.

Public comment opened: None offered. *Public comment closed.*

Steve noted if the south lot was sold, the view from that lot might be affected. Still, the house would be 130 feet away. Sue said the house would have already been constructed so people would know about that.

Motion made by Paul Grinde, and seconded by Don Patterson, to approve the conditional use with staff conditions and terms as amended. Motion carried, all in favor.

JOHNSON VARIANCE & CONDITIONAL USE—FINLEY POINT (4:18 pm)

Robert Costa noted that the agent for the project, Paul Bishop, was here. Robert presented the staff report. (See attachments to minutes in the July 2015 meeting file for staff report.)

Steve asked for more information regarding the concrete slab underneath the deck near the solarium. Robert referred to attachment 7 and the photos on pg. 2. The area with the concrete pad was below the solarium. Decking extended a little bit past that. The concrete pad was underneath the solarium and went to the other side of the residence, pretty much the full length of the residence. With the plan to eliminate the [inaudible] part of the deck, Steve asked if some of the concrete would be exposed. Robert replied they hadn't had an indication of whether that would go away. His guess was yes, that it could be exposed. Steve asked if that had been figured into impervious surface. Robert affirmed. Sue asked if it was as wide as the solarium. Robert said it was pretty much to the solarium edge. The decking went past it. On attachment 4, Sue showed where this seemed to be, and Robert verified.

The agent Paul Bishop spoke about the project. The applicants were the second property owners. The family had the property for decades and intended to keep it in the family. It was a 1950's house updating to the current century. They were adjusting the decks on the lakeside backwards away from the steep slope. They would also limit the incursion into the 50-foot setback.

Sue asked if they planned on leaving the concrete and walkway. Paul B said they'd discussed taking that away and making it more of a lawn this week. That side of the house didn't have lawn. They hadn't made a final decision.

Steve asked about the amount of impervious surface. Robert said it was around 34%. Steve noted the concrete pad was included when the 34% was calculated so it would be less than that if concrete was removed.

Public comment opened: None. *Public comment closed.*

Sue liked the idea of removing a lot of the decking. She hadn't realized the cement ran the entirety. It would make it safer and more secure. Steve thought it would be great to encourage them to get rid of that piece of concrete. He liked that they were moving in a direction away from the lake.

Motion made by Sue Laverty, and seconded by Paul Grinde, to approve the variance and conditional use with staff findings of fact, analysis and conditions. Motion carried, all in favor.

HOFF CONDITIONAL USE—FINLEY POINT (4:32 pm)

Robert Costa introduced Ron and Karen Hoff and their agent, Paul Bishop. Robert presented the staff report. (See attachments to minutes in the July 2015 meeting file for staff report.) He clarified property locations in the photos. He gave the correct wording for the second sentence on pg. 14, to say the structure encroached into the 10-foot setbacks required by zoning, and there were also attached walkways that encroached into adjacent property. Robert noted the Board might be accustomed to staff giving a clear recommendation. In this case, it was difficult to determine. Possible findings were provided that the Board could use if they chose to approve the proposal. As noted, there appeared to be existing circumstances that weren't being addressed. It was up to the Board whether they deemed the proposal reasonable to move forward at this time.

Robert noted two conditions of particular concern. On pg. 20 under item #2 for impervious surface coverage, there was a lot of discussion about whether or not the proposal would be in accordance with the zoning. Ultimately it was up to the Board. Staff weren't sure whether or not it was reasonable to add on to existing land, based on the lot size, how it was developed and the overall proposal. Item #3 (on pg.21) touched on whether or not the proposal was harmonious with the general area and its character. Questions existed on whether or not this matched what was going on around this property. It was ultimately up to the Board. These two findings were kind of the linchpin upon which there was struggle.

Sue asked when the lots were subdivided. Robert answered 1991. Anderson's Addition was a resubdivision. It was just a little before the zoning. Before then it was 1 parcel that was part of the Sunrise Villa subdivision. Robert said additional information arrived from the agent, Paul Bishop, this morning and had been provided to the Board. Robert hadn't had much time to review it. It seemed to be Paul B's attempt to respond to the staff report and public comments.

Steve thanked Robert for the paragraph in item #7 of the report, which calculated things like the total impervious surface and total lot coverage. They could see what the impacts really were when the lot had a high percentage of setback area. LaDana said the unusual thing with this one was there was a lot of encroachment into the setbacks so it didn't get included in the buildable area. You had a half-acre lot but you were also encroaching onto your neighbor's lots and taking up some of their area. Some of them only had a half-acre also. It was a different situation from what they usually encountered. Steve said he calculated the percentages. When you looked at the total impervious surface, it

was 41% of the buildable area, not 36%. This was looking at all of the impervious surface area, even that which was off the buildable area, and compared it to the buildable area. If you looked at the total lot, it was 14%. He asked if Sanitation requirements would require the guest house to be dependent. LaDana said that depended on what DEQ approved in the new rewrite.

Steve asked about a permanent RV location. If the RV was used as a guest house, did it count as an allowable guest house? In this proposal would there be two guest houses? Robert said they didn't know what the use of the RV was. Steve asked about the case where it was in regular use in the summer. LaDana said it needed to be reviewed and approved, which hadn't occurred. Robert said they would need to look at that on an overall basis before they could make that judgement. This was one of the issues.

Sue checked on points about the shared septic with the planners. LaDana said lot C and lot B shared the septic on lot A and lot B. Lot A had its own. Robert wasn't sure for how many bedrooms the approved shared septic was. The struggle was to get clear information from Environmental Health on what exactly was going on. Letters went back to 1990. It wasn't clear. What he'd heard from Environmental Health was that the system was insufficient. LaDana said they didn't say why it was insufficient. The planners pointed out some of the obvious things that usually they were aware of just from looking at other applications. They did the best they could with the information they had. They knew it had to go through a COSA rewrite. They didn't know what they'd end up with in the end with the rewrite. The lots were tight already. DEQ would be reviewing them.

Sue asked if the parking pad was added in 2012. Robert said they had imagery that showed it around 2012 or 2013 but they didn't know how long it had been there. She checked whether or not the gravel parking pad had an impact, even if it stretched into the setbacks. Robert said the RV use would need to come into compliance. Sue confirmed with Robert that the pad lines were irrelevant if it was just the pad. Steve said it impacted the functioning of the septic field.

Steve asked if neighbors typically wrote agreements for sharing maintenance costs when they shared utilities. Was there a document for this? Robert thought the document about easements was the closest thing he found. This was done around 1990 or 1991. He wasn't sure what they required then. Today this would have been done. LaDana said that was lined out when it went through DEQ review and when DEQ approval got recorded.

Paul Bishop spoke about the application. The Hoffs didn't create the parcel. Had the properties be configured more normally, the calculations would be skewed in a completely different direction. It was a function of that skinny lot. He didn't think the Hoffs should be held to an elevated standard of impervious surface that didn't necessarily apply to a home on an equally sized lot that was a different shape. The view angles from the neighbors were an important part of the public comment. He pointed to a diagram in today's handout that was to illustrate the impact to the view wasn't as critical as you

might imagine. The Hoff residence was roughly in line with cabin A on property A. The view from the southern cabin was impacted as much by the trees on that lot as by the Hoff's proposed development. The proposed cabin fit fully in the setbacks. Looking at the Carstens survey, it appeared lots A and C had structures built on slopes that exceeded 25%. Both lots had structures that violated the setbacks. The Hoff's existing situation was more the norm in the neighborhood than the exception, as far as fitting into the pattern of the neighborhood.

Steve looked at the view shed drawn by Paul B. The contours were shown as blocking out the view before the view got to cabin A. He looked at photo #2 and those three trees didn't have any low branches. You could easily see cabin A. Their view wasn't blocked by those trees. It was blocked by cabin A. Their current viewshed went over to cabin A, which meant a higher percentage would be blocked by the new cabin.

Steve said the drip line of the new cabin was right on the setback and asked about stormwater management. Paul B said A2Z Engineering was employed to do that. He hadn't received information on that yet. Steve asked if the stormwater management plan required gutters whether they could be put on the eaves. Paul B said historically he understood that Planning considered eaves but not gutters. Robert said this was news to him. LaDana said it was any extension off of the structure. Most of the time, people weren't building to the 10-foot setback, so it wasn't usually an issue. Paul B said in that case, it would be a consideration. Carstens would be there to develop the envelope of three-dimensional space that they could work with. Steve said they could pull the eave back 4 or 5 inches on each side so the gutters on the fascia would be inside the setback. Paul B apologized for his misunderstanding. He was certain there would be gutters on the structure for the stormwater.

Sue described the types of rooms in the house. She thought the other office/den/bedroom could constitute [another bedroom], regardless of what it was called. Paul B said it wasn't their intention to use it as a bedroom. That was their home office. Regarding the downstairs game room space, they played a lot of pool and ping pong. He added this was like living in a fish bowl given how close the neighbors were. On property use questions, the neighbors would know immediately what was going on.

Sue checked the understanding of the shared septic system. She read the septic system had an existing one-bedroom and that the existing shared septic system was permitted to allow one additional bedroom to be constructed on lot B. Paul B said this was his understanding. That much of the septic system confusion was defined. Steve checked just one bedroom only was left, going to lot B. Paul B said during the design of the system, 3 bedrooms were anticipated. Two were spoken for and one remained to be accessed. Currently the system wasn't running at capacity. Somewhere in the process the extra capacity was designated for lot B. Paul G asked about the RV. Paul B said to his knowledge, the RV hadn't been hooked up and wasn't going to be. The RV was parked and was used intermittently as guest quarters. That would be independently addressed and approved. The septic tank was way down the hill. Steve asked if the tank was used by either of the other two lots. Paul B said lot C fed to that tank. The shared

tank then pumped to the shared system, which extended onto lot A. Lot A had its own separate system. This was the first step in a process of going through the COSA rewrite and approaching DEQ and Sanitation to address unanswered questions on that portion of the project.

Steve asked if the fire department commented on the access. LaDana said they wouldn't typically comment on that. If the access was an issue, it was already an issue. The structure wasn't creating that situation. The lots were already developed there. Sue asked if fire department comment came in for height over 30 feet. Robert mentioned side setbacks, among other things. [The planners] might want them to specifically comment on something if it seemed like it might be adding problems or encroaching into setbacks where there might be 'fire wise' things at which to look or things that would hinder them from access.

Paul B said it was tough to be good neighbors in tight quarters. If the approval was granted to move ahead, part of the conditions would address the COSA issues. A condition could be made to temporarily fence the Hoff's property when they got to that point to avoid construction vehicles backing onto the neighbors' property and so the neighbors' property would remain whole. The contractor was fine with that. Sue thought that would go with condition #11.

Public comment opened:

Jeff Stephenson, the owner of lot A spoke. He and his wife submitted written comments as did the Mamuzichs [owners of lot C]. They had a number of concerns, issues and problems. They were concerned that the ball kept rolling. They would like to see more concrete solutions put in up front rather than moving things along and then seeing things develop as they went along. Steve asked for more explanation. Jeff referred to solutions and agreements such as septic use. The neighbors hadn't seen the actual written agreement. You had one septic tank with two houses. They weren't clear on how much use it was allowed. They had a letter from Lake County saying they felt like the use was maxed out or could only handle two bedrooms. They didn't know where the extra room was coming from, other than one bedroom in each structure, if that was the case with multiple bathrooms with dens and recreation rooms. It was unclear how much the actual septic usage was. They knew the drainfield came onto the Stephensons' property on Anderson A. They didn't really know what agreement that was. Some was in writing and some was not. They had issues that hadn't been addressed over time. It was a congested area and would become more congested with this proposal.

Steve asked how Jeff thought that should affect the Board decision. Jeff said the Board would give an exemption for impervious surface coverage in a small, congested area with an RV on a permanent pad that was used quite a bit of the time. There was usage above and beyond what was being presented. They'd like to see that factored in to the Board's decision as well as the slope exemption and grading. The property would block Anderson lot C's view of the lake. That structure was built back from the lake to allow the house structure a view of the lake. It would significantly impact Anderson C. They

respected the right of the house [on lot B] to want more space and a bigger structure. He thought there were alternatives to add on to the cottage and get the extra space that they wanted to have without impacting the view of the neighbors, and using the existing system that was there.

Paul B showed a copy of the Lake County letter that clearly identified the capacity for the system. It was copied to the neighbor on lot C but not lot A. He would make sure they got a copy of that. It identified in paragraphs 3 and 4 that lot B had two-bedroom capacity on the shared wastewater system. Lot C had one-bedroom capacity. There was some dispute about lot C and how many accommodations there were on that property.

Sue asked when the property was purchased. The Hoffs replied January 1991. Sue confirmed with the Hoffs that they added the gravel pad to park the RV. She asked what deterred them from expanding the existing cabin. Ron Hoff said he wasn't sure of the age of the cabin. It was at least 1935. A small addition had been made after that. The old log cabin had been covered with sheetrock on the inside and siding on the outside. The new addition wasn't done well either. They knew they had an ant problem in the old structure. They didn't know how much of it was left. The new structure wasn't vented properly underneath and the floorboards, the stringers under the kitchen floor, were rotted to the point where they were a worry. There was nothing to add onto. It would mean completely razing and building somewhere else. They considered that in the future, access to [inaudible] would solve their garage problem. They wouldn't want to build where the cabin was because there was a better place to build on the property.

Steve checked that in the future, if they had more structural problems with the old cabin, they would tear it down and build a garage there. Ron wasn't sure they would do that. He doubted they would do that. If the cabin did survive, they would probably use a portion of it [for the garage]. Sue checked that they currently had the small garage there as well. She drove down there and it was very, very tight although a cute and nice area. She didn't know whether subdivision with those types of [small, narrow lots] would be allowed today. LaDana commented lots like that wouldn't comply with the zoning.

Public comment closed.

Steve said further development in that area looked like it should be discouraged. He didn't know if impervious surface and building on steep slopes should be the limiting factors. He was having a hard time deciding if it was legitimate to limit development by denying the impervious surface and slope conditional uses. It looked like there was a good chance the development would be limited by not being able to provide the proper septic and utilities and those kinds of things.

Paul G said that was his feeling also. He thought the Hoffs would have a very difficult time with the environmental health. Steve thought Jeff Stephenson alluded to the problem where it would be nice if they had some confidence that the other ducks would get in a row before the Board approved it. It was hard to approve it without knowing

whether the septic could be done at all, and to have so many parallel paths where if any one stopped, all the rest did.

Sue agreed with both Paul G and Steve in that it seemed like the lot was very narrow and very small. The viewshed was irrelevant. It could be a vacant lot and someone could build on it. Having said that, it was factor in that area, being so small and so narrow. By adding yet another building with all these open-ended questions, she wasn't comfortable. Why couldn't [the Board] get these items when [the applicants] were ready to say they could do this with the septic and so forth rather than the Board having to condition on various things and kick it down the road? She thought it was overdeveloped and there were too many questions.

Paul G thought part of that was this was an economically feasible place to start as opposed to hiring A2Z Engineering to do the work and then come to the Board and then have the Board say it was overdeveloped. There was no clear-cut path. He agreed this was congested. When you buy a lot like that, you bought a lot like that regardless of the shape. He felt if they had a document that said they got another bedroom, DEQ would look at everything and tell them things. The requirements could be met. Getting a stormwater plan was going to be very difficult. If the owners wanted to continue with this, he didn't see a serious red flag for him to say no.

Steve thought it would be easy if they were looking at increasing impervious surface for a conditional use to raze the existing structure and build a bigger structure in that location. It wouldn't increase the number of structures or make a big change in location. With increased structures, someone would use the property to a greater extent and not have access on their own property but would ask the neighbor for more cars going down the driveway. He wondered about access to the garage. The side with the apron on it looked like it was on the neighbor's property. There was probably more driveway to the garage from the neighbor's driveway. Sue said the access that she saw went down lot C. Access to the garage was from lot C, which was only 2 feet over.

Don thought if they had more answers, the applicants could come back. Steve said if the neighbor on lot C didn't have a lot of objections to the development, that would be different. The lot C owners were providing access to this lot and had two pages of objections to the development. Sue agreed with Steve's comment on impervious surface coverage that if the cabin was rebuilt, replaced or configured better, that would be one thing. They were adding yet another structure and it looked to her like there were at least two bedrooms. Steve said if tearing down the old structure and building a new residence there required a variance for setback, that might be something that could be considered. That would fit in the character of the neighborhood. Most of these structures were on setbacks. If the new one had a setback issue instead of increasing the impervious surface or instead of being on slopes, it might fit into the neighborhood.

LaDana suggested remembering that as non-conforming structures went away, the hope was that things would come into compliance if possible. A lot of the things seen on here were either non-conforming or unpermitted. They didn't know why these weren't

permitted. Ideally they would go away and come back as something that complied. Paul G said when something like this came up, the lot certainly came under scrutiny. Steve said you couldn't place a condition to tear down the garage before they got to build the building. You got rid of the non-conforming structures when you had to replace one of the non-conforming with a conforming. LaDana said the landowner made choices of what they wanted their surface coverage to go to. Paul G thought this little subdivision might have been created because they knew the zoning was coming. LaDana said if you thought of the original lots, villa sites were small. The lots were created in 1991 but the villa sites were much older, around the 1900's. Sue said the current owner might not intend to use the new structure as a 2-bedroom but the next people might. That changed the whole game. Steve said his subdivision was created in the '30's with 50-foot lots but only one family owned a single lot. Most people had two or three lots. For someone building an unheated one-room cabin for spending time at the lake prior to WWII, 50 feet was all you needed.

Ron said that he and his wife sold their Missoula house with the idea they would join the community up here. They moved their residence here. They thought if they abided by the rules and were willing to adjust, they would be able to build. During the time they've owned their lot, a house was built on lot C that crowded into their space. The house was about 4 ½ feet from the lot line. From lot A, a house addition affected their view, as did the house on lot C. It seemed like they wanted to add a small structure to the lot and they were being turned down when the people before them got exactly what they wanted on their lot. They had two structures on their property at the present time. This house would be a third structure. Lot C had 4 structures on it. Lot A had 6 plus the permanent carport structure. When it came to the impact people had on those lots, [the Hoffs] probably had the least impact, yet they were being told they couldn't build a house on that lot. It didn't seem fair.

Sue thanked the Hoffs. She appreciated and understood what they said. That said, it didn't change that much. They should be able to build their retirement home on their property. Unfortunately their property was limited in a lot of ways. There might be something that would better suit what they would like for that property and for the neighbors. It was a beautiful piece of property.

Paul G made a motion to approve this with staff recommendations and findings. LaDana said staff didn't really give a recommendation. They would probably need to modify some of the findings. Hopefully there were enough conditions to work with. They might need more.

Don noted this would just be approving the first step.

Steve appreciated the Hoffs' comments and understood where they were coming from. The reality here was they were right but they needed to think about what they said. They thought that if they came in and followed the rules, they would be allowed to build. They were here [at the Board of Adjustment] today because they couldn't follow all of the rules. They were asking for exemptions on the rules, so to speak. He compared it to

going a little over the speed limit versus going a lot over the speed limit. Both might be over but using discretion, 5 over might be accepted and 20 over might not be. He pointed to the paragraph at the bottom of pg. 20 in possible finding #2. He thought in denying this, the Board would decide that the proposal might not be in accordance with the general objectives of the zoning regulations as outlined here. They would have to change it to say it was in accordance with the general objectives. In finding #3 (pg.21), it talked about it being harmonious with the existing or intended character of the general vicinity. You could say that a lot of structures in a small area were harmonious but he didn't know that was the intention here. He thought this might also need to be changed. Sue agreed.

Don asked if they were to approve it, could they work on the findings afterwards. LaDana replied they should make the findings today, since an approval or denial letter would be sent out on their decision. There was the option to table it. They could ask for more information if they didn't have enough to review it. The Board could see that staff struggled with it, doing the best they could with what they had. The Board was seeing that the staff just couldn't find some things. Steve didn't know what that [needed] information would be. Paul G said they could change the percentages. Steve said the reality was if the 3 lots were undeveloped and the proposal came in, they could have approved that, even with a big concrete pad in the back. Part of it was the straw that broke the camel's back. This house seemed to be that straw to him. Part of that was the unapproved development. Sue termed this undocumented rather than unapproved. Steve said structures had been added to these properties without review. The process of developing these 3 very small, narrow lots might have been slowed down or consolidated. Instead of 6 buildings on one lot, 3 of those could have been combined into one slightly larger building without impacting the neighbors and environment so much.

Jeff said the 6 buildings were on a 100-foot wide lot. The lots weren't all 50 feet wide. LaDana said lot A was significantly larger than the others. Also the drainfield extended out of the easement area where it was proposed to be. The water and sewer lines weren't in the proposed easement areas either. Steve thought it would be nice if the neighbors agreed on the use of the driveway so you'd have some confidence when approving the construction in front of the lot that there wouldn't be a problem created by the neighbors finally getting frustrated with too many construction vehicles. Sue saw that as more of a personal neighbor thing. There was nothing in the easement that said how many cars you could have. It was beyond the Board's scope although it would be better. Steve asked if the easement included parking. Robert said it wasn't clear.

LaDana said this was becoming more of a full time use. She didn't know if it had been a seasonal or full time use in the past. There would be more impact as you used a property more. Steve said if you were using your property and not the neighbors, it made little difference. Robert read the easement language: Developers hereby grant an easement over and across lot C for the benefit of lot B for roadway purposes, as said roadway is now in place and existent on said property. He noted it didn't talk about access or parking.

Sue asked to what end they could table it and have them bring back more information. Steve inquired what information they would ask for that pertained to the decision on increasing impervious surface. LaDana said they would need to do a new review anyway if the site plan or project changed significantly. Steve mentioned that one reason impervious surface had been limited in the past was to make sure enough open area existed to absorb the runoff from the impervious surfaces. If they waited until the stormwater issues were resolved, that was something they could evaluate. That would be something the Board could ask for as far as tabling for more information.

Paul G mentioned to the motion he was going to make, that he thought would die for a lack of second. Don said he was going to second it. Sue asked if they wanted to go back to the motion and get the second or let it die. Steve said they needed findings to support a motion. Paul G said the findings didn't do so. Steve asked how they'd be changed. Paul G said the numbers couldn't be changed. Steve asked if he had a way to decide the numbers were okay. Paul G said without numbers for the adjoining lots to see if they're comparable with what was proposed here (and thus harmonious) that might be a reason to table it. Sue asked if that would be a reasonable request. LaDana asked how they'd compare the significantly larger lot to a half-acre lot. The encroachments were going on to the neighboring properties already. There was only so much you could put on a half-acre lot. They didn't have room for a drainfield, a well or parking.

Jeff asked if the [encroaching] garage was built in 1994 after the zoning. LaDana said a permit for it wasn't found. In that era, structures out there didn't get permits for the zoning. People didn't know at that point there was zoning.

Paul B relayed that the owners would like to table this. There were lots of questions to address and concerns of neighbors and the Board. He addressed that they had to start at one end or the other and A2Z Engineering suggested starting here. If they'd started with DEQ, DEQ would be having the same questions in reverse. The Board had fair questions. He thought they could address those given more time and give a greater comfort level for a more informed decision.

Don checked that the applicants were aware of the type of questions the Board had, so they would be able to bring something back. LaDana suggested the Board should specify the additional information they would like to see that would help with the decision. Sue said she was always open for more information. Specifically in the findings of fact, what set with her was that 'the subject proposal had been designed to further utilize existing buildable area, thereby adding further impacts....' The applicants were adding further impacts without addressing the current impacts of the encroachment and the building setbacks. She wasn't sure they could address that without some major redesign of the lot. She was letting the applicants know that for her; in her mind, there were an awful lot of structures on that property. The existing coverage, or over-coverage, wasn't something she was comfortable with granting. She understood the DEQ might take a longer time. Paul B said one aspect they could fully address was the stormwater management. That was in the Board's purview and there was a big hole there. Sue said that would be huge.

LaDana thought another thing that came into play was where the water lines were going to go and where the drainfield [inaudible] was going to go. That had to be shown on [the plan]; these all had setbacks and it was going to depend on where you put the structure. That was what staff tried to find out from Environmental Health and could not find out. It didn't look like they had enough room to work with. How were they going to make it comply? She thought they also needed to work with the Environmental Health folks and the DEQ people to get everybody on the same page so they all knew how this would work in the end. The applicants had a lot of stuff to try to fit onto this lot and [the Board and staff] had concerns about how they were going to do that because it had already been an issue and had already spread out onto the neighboring properties. For them to build additional structures, how would they get everything on there that was needed?

Sue said the Board was making a determination on an individual parcel based on this individual information. Especially with unanswered questions, that could also, as had happened in the past, cause a precedent somewhere down the road that would come back to kick them in the teeth. Paul B said the Hoffs planned to live there the rest of their lives. They wanted to be good neighbors and compliant with the tone of the zoning ordinance. It was obvious they had more things to answer and some other information to bring. He heard impervious surface. Personally, he didn't believe it was out of character with the general development. When they came back, he would try to show them that. He couldn't say they wouldn't come back with a slightly different plan or configuration. The Hoffs might choose to change the configuration of the house to drop it below the impervious surface so they didn't have to address that issue. There were a number of things they could do. They would definitely pull the application today.

Steve said one thing that bothered him was he didn't know what objectives the neighborhood had in mind when they came up with the zoning regulations and limits on impervious surface, building height and those kinds of things. For height, was whether the fire department ladders were high enough to get to a tall building or was it that they just didn't want tall buildings? Was impervious surface limited because they wanted a lot of green space or was it just a concern with runoff from the impervious surfaces being able to soak into the ground? One way you judged whether things fit into the community/neighborhood and were harmonious additions was to see what kind of harmony the neighbors were making. The two letters of comment from the two neighbors weren't very harmonious. When you had a small neighborhood with small lots and everybody lived close together, it was important that everybody get along. He saw them moving down the road where the applicants had to ask for favors to use the driveway and the neighbors had to ask for favors to get a view. At some point, someone could stop that from happening and it caused problems.

Steve said he would like to see less dependence on the neighbors. Where were the cars that came down to these two residences on this driveway parking? Were they parking on or off the neighbors' property? Were they parking on utilities or a septic field? Part of it was the [limited] space but part was those problems. [The applicants] talked about putting up fences to make sure the construction people didn't wander onto the neighbors' properties. What happened when the fences came down after construction and people

such as guests or family wandered on the neighbors' property? Would that cause the same kind of friction between the neighbors that the construction workers would have caused? He didn't know. He'd like to see a feeling that the neighborhood supported the development not just the property owner. He agreed this wasn't required but that would make it easier for him to approve this.

Robert clarified with the applicants that they didn't want the Board to take action on this today. Paul B affirmed that the owners' request was that no action be taken and that they be allowed time to come back again. LaDana asked how much time they would need. Paul B said he and the owners would need to discuss that. Sue checked procedurally whether the Board tabled this or the applicants withdrew it. Robert said the applicants didn't want the Board to act upon it so Sue concluded they withdrew it. LaDana said when it came back, it would essentially be a new review of whatever proposal was brought. Paul B thought so. There were enough substantive issues that they were to start over [inaudible] without the blemish of a denial.

OTHER BUSINESS (6:04 pm)

There was another week until the deadline for Board items.

The Hoff proposal was withdrawn and would come back as a new proposal.

Sue Lavery, chair, adjourned the meeting at 6:06 pm.